

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

CIVIL ACTION NUMBER

3:05-CV-0741-M

BARRY BUCKHANON and RODNEY FRALEY,
Plaintiffs,

vs.

HUFF & ASSOCIATES CONSTRUCTION COMPANY,
INC.,

Defendant.

DEPOSITION TESTIMONY OF:

BARRY BUCKHANON

June 8, 2006

10:15 a.m.

COPY

COURT REPORTER:

Gwendolyn P. Timbie, CSR

EXHIBIT

D

1 S T I P U L A T I O N S

2 IT IS STIPULATED AND AGREED by and
3 between the parties through their
4 respective counsel that the deposition of
5 BARRY BUCKHANON, may be taken before
6 Gwendolyn P. Timbie, Certified Shorthand
7 Reporter and Notary Public, State at
8 Large, at the law offices of Bowles &
9 Cottle, Tallassee, Alabama, on June 8,
10 2006, commencing at approximately
11 10:15 a.m.

12 IT IS FURTHER STIPULATED AND
13 AGREED that the signature to and the
14 reading of the deposition by the witness
15 is waived, the deposition to have the same
16 force and effect as if full compliance had
17 been had with all laws and rules of Court
18 relating to the taking of depositions.

19 IT IS FURTHER STIPULATED AND
20 AGREED that it shall not be necessary for
21 any objections to be made by counsel to
22 any questions, except as to form or
23 leading questions, and that counsel for

1 the parties may make objections and assign
2 grounds at the time of trial or at the
3 time said deposition is offered in
4 evidence, or prior thereto.

5 Please be advised that this is the
6 same and not retained by the Court
7 Reporter, nor filed with the Court.

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A P P E A R A N C E S

FOR THE PLAINTIFFS:

JAMES R. BOWLES, Esquire
Bowles & Cottle
2 South Dubois Avenue
Tallasse, Alabama 36078

FOR THE DEFENDANT:

BENJAMIN C. WILSON, Esquire
Rushton, Stakely, Johnston & Garrett,
P.A.
184 Commerce Street
Montgomery, Alabama 36104

ALSO PRESENT:

RODNEY FRALEY

1 I, Gwendolyn P. Timbie, Certified
2 Shorthand Reporter and Notary Public for
3 the State of Alabama at Large, acting as
4 Commissioner, certify that on this date,
5 pursuant to the Federal Rules of Civil
6 Procedure, and the foregoing stipulation
7 of counsel, there came before me at the
8 law offices of Bowles & Cottle, Tallassee,
9 Alabama, commencing at approximately
10 10:15 a.m., on June 8, 2006, Barry
11 Buckhanon, plaintiff in the above cause,
12 for oral examination, whereupon the
13 following proceedings were had:

14
15 BARRY BUCKHANON,
16 having been first duly sworn, was examined
17 and testified as follows:

18
19 EXAMINATION BY MR. WILSON:

20 Q Could you state your name,
21 please, sir?

22 A My name is Barry Buckhanon.

23 Q Mr. Buckhanon, what's your

1 current residence address?

2 A 497 Kent Road, Tallassee,
3 Alabama.

4 Q How long have you lived there?

5 A About fifteen years.

6 Q Are you married?

7 A No. Single.

8 Q Have you ever been married?

9 A No.

10 Q Have you ever given a
11 deposition before?

12 A No.

13 Q Well, let me kind of walk you
14 through the process. We're going to ask
15 you a series of questions about your
16 lawsuit. And if you don't understand the
17 question, will you let me know so I can
18 rephrase it for you?

19 A Yes.

20 Q And you need to answer
21 verbally so the court reporter can record
22 your answer. Okay?

23 A Yes.

1 Q Do you understand you're under
2 oath?

3 A Yes.

4 Q And if you need to stop for a
5 moment to take a break, let me know.
6 Okay?

7 A Okay.

8 Q How long have you lived here
9 in Tallassee?

10 A All my life.

11 Q And what's your educational
12 background?

13 A Graduated. Twelfth.

14 Q Twelfth grade?

15 A Graduated.

16 Q What school?

17 A Tallassee High School.

18 Q What year?

19 A '96.

20 Q Does anyone currently live
21 with you?

22 A Yeah. I live with my mom.

23 Q What's her name?

1 A Helen Ricks.

2 Q R-I-C-K-S?

3 A Right.

4 Q How long have you lived with
5 her?

6 A All my life.

7 Q Do you have any -- other than
8 your mother, do you have any relatives in
9 this part of the state?

10 A Yeah.

11 Q All right. Give me their last
12 names.

13 A Macon and Buckhanon and
14 Williams.

15 Q Williams?

16 A Uh-huh.

17 Q Anything else?

18 A No.

19 Q Where do these individuals
20 live?

21 A Some of them stay in
22 Tallassee, some of them stay in Macon
23 County, some stay out of state.

1 Q Is your father living?

2 A No.

3 Q Do you have any relatives in
4 Lee County?

5 A No, sir. Not as I know of.

6 Q Do you have any brothers and
7 sisters?

8 A Yes, sir.

9 Q What are their names?

10 A Anthony Buckhanon, Jasper
11 Buckhanon, Robin Buckhanon, and Terry
12 Buckhanon.

13 Q All right. Are you currently
14 employed?

15 A Yeah.

16 Q Where?

17 A I work at Hilyer Auto Parts.

18 Q What was that?

19 A Hilyer Auto Parts.

20 Q Where is that?

21 A Right up in Kent. Going
22 towards Kent.

23 Q How long have you been working

1 there?

2 A I've been helping him off and
3 on all my life.

4 Q Are you paid by the hour?

5 A Yeah.

6 Q What's your current salary or
7 rate of pay?

8 A He pays me seven fifty an
9 hour.

10 Q How long has that been the
11 case?

12 A Sir?

13 Q How long has that been the
14 case?

15 A Now -- I've been back with him
16 probably now about five months.

17 Q Other than -- is it Hilyer?

18 A Yeah.

19 MR. BOWLES: H-I-L-Y-E-R.

20 Q Other than that, where have
21 you worked since leaving employment with
22 Huff and Associates Construction Company?

23 A Hilyer. Hilyer.

1 Q Anywhere else?

2 A No. That's all.

3 Q And you say on and off?

4 A Yeah.

5 Q Did you work at Hilyer before
6 you went to work for Huff?

7 A Yeah. Yes, sir.

8 Q Are you full time at Hilyer?

9 A Right now. Yeah.

10 Q Have you ever been part time
11 there?

12 A Yeah.

13 Q Does Hilyer keep an employee
14 or personnel file on you to your
15 knowledge?

16 A No.

17 Q Would they have any records of
18 your employment there?

19 A No.

20 Q The times you have not worked
21 at Hilyer, what has been the reason for
22 that?

23 A Sir? Well, I knowed him all

1 my life, and I helped him off and on, you
2 know. I can get me a better job, and, you
3 know, I go with him.

4 Q Now, Hilyer is an auto part
5 store?

6 A No. Sells junk parts; motors,
7 transmissions, all kind of stuff like
8 that.

9 Q What's the owner's name?

10 A Charles Hilyer.

11 Q Have you had any other jobs
12 since graduating from high school other
13 than Huff and Associates or Hilyer?

14 A No.

15 Q When you started with Hilyer,
16 what did you make per hour?

17 A I was making about six
18 something when I first started helping
19 him.

20 Q Do you have any -- can you
21 give me a feel for the periods that you
22 worked for Hilyer versus the periods when
23 you haven't been employed?

1 A Could you rephrase that?

2 Q Yeah. I mean, as I understand
3 it, you've been on and off with Hilyer;
4 right?

5 A Right.

6 Q I need to get some feel for
7 the times that you've been on and the
8 times you've been off. Is there anything
9 you can say to help me understand that?

10 A Well, he really, you know,
11 knows my family real good. So if I need
12 some work, he'll let me work, you know.
13 So that's how I've been kind of off and on
14 with him all my life because he's always
15 been close with my family.

16 Q All right. And when you've
17 worked for him, he's always paid you?

18 A Yeah. Yes, sir.

19 Q Has he paid you in cash?

20 A Yeah.

21 Q Has he paid you with a check?

22 A No. He pays me cash.

23 Q Does he withhold money --

1 A On me? No.

2 Q -- from a paycheck?

3 A No.

4 Q Exactly what do you do for
5 Hilyer?

6 A Pull motors, transmissions,
7 car parts, doors, whatever he needs me to
8 do.

9 Q After graduating from high
10 school, did you get any other education?

11 A No.

12 Q Trade school or anything like
13 that?

14 A No, sir.

15 Q How did you come to find out
16 that there was a job opening at Huff and
17 Associates?

18 A A friend -- a friend of ours
19 that was working up there.

20 Q What was his name?

21 A Brad Connell.

22 Q Brad what?

23 A Brad Connell.

1 Q Connell?

2 A Yeah.

3 Q C-O-N-N-E-L-L?

4 A Uh-huh.

5 Q Keep going. Tell me --

6 A And he got us -- he was
7 telling us about a -- that they needed
8 some help up there, and he wanted him to
9 bring a couple of guys that wanted to
10 work. And he got me and Rodney, and we
11 went up there. We worked for him.

12 Q How did you know Brad Connell?

13 A He always lived down the road
14 from us, so we knowed him off and on, you
15 know. He come by the junkyard all the
16 time. We're pretty good friends.

17 Q Are you still friendly with
18 Brad Connell?

19 A Yes, we are.

20 Q Does he still work for Huff?

21 A No.

22 Q What did he do for Huff? I
23 mean, what was his job position at Huff

1 when he told you and Mr. Fraley that there
2 was some need for --

3 A He was -- he was a carpenter.

4 Q Do you know how long he had
5 worked for Huff?

6 A I'm not sure of that.

7 Q So he told you and Mr. Fraley
8 that Huff needed some more employees?

9 A Yes, sir, he did.

10 Q Did he tell you what job site
11 it was?

12 A Yes, sir.

13 Q And it was the KA house at
14 Auburn?

15 A Yes, sir, it was.

16 Q And so how did you get from
17 there to working for Huff? You said he
18 took you up there with him?

19 A Yeah. We rode to work every
20 day with Brad.

21 Q Did he take you and Mr. Fraley
22 up there after telling you that there was
23 some need for employees?

1 A Yes, sir, he did. Yes, sir,
2 he did.

3 Q Did you go straight to the KA
4 site?

5 A Yes, sir, we did.

6 Q Who did you talk to?

7 A Bobby. Bobby Myers.

8 Q Had you ever met Mr. Myers
9 before this day?

10 A No, sir, I didn't.

11 Q Did Mr. Connell tell you
12 anything about the job before you got
13 there?

14 A No. He did -- the only
15 thing -- he told us that he needed a
16 couple of laborers.

17 Q To help him?

18 A Sir?

19 Q To help Mr. Connell?

20 A Yeah. Yes, sir.

21 Q So when you got to the job
22 site, what day was this?

23 A I can't remember exactly the

1 date.

2 Q The documents that have been
3 produced in the lawsuit indicate that you
4 and Mr. Fraley started sometime around
5 June 1, 2004.

6 A Yes, sir.

7 Q Does that sound right to you?

8 A Yes, sir. Somewhere along in
9 there. Yes, sir.

10 Q And you had never worked for
11 Huff before then?

12 A No, sir. Never in my life.

13 Q So you and Connell and
14 Mr. Fraley showed up at the construction
15 site --

16 A Yes, sir.

17 Q -- one day --

18 A Yes, sir.

19 Q -- in June of 2004. And did
20 you have a chance to talk to Mr. Myers
21 that day?

22 A Yes, sir, we did.

23 Q Tell me about that.

1 A Well, when I first started --
2 first started and -- we got up there that
3 day, and he asked me and Rodney -- but I
4 explained to him -- I told him that I
5 couldn't -- I couldn't get up high. I
6 told him anything he wanted done on the
7 ground I could do and -- because I've got
8 a bad knee. But anything -- but he still
9 had me doing stuff up high, getting up on
10 scaffolds, on top of the building.

11 Q Let me back up. When you
12 talked to Mr. Myers that first day, did
13 he -- did you tell him what you could do
14 to help?

15 A Yes, sir.

16 Q What did you tell him?

17 A He -- well, when I first
18 started, he asked me -- he told me he was
19 just going to put me on cleanup; you know,
20 cleaning all the trash and stuff out from
21 around the building, cleaning out the
22 inside of the building. Because it was a
23 lot of different crews on the site. But

1 we had the job to clean -- keep everything
2 clean on the job site.

3 Q So instead of working with
4 Mr. Connell, you were assigned to kind of
5 site cleanup?

6 A Yes, sir.

7 Q All right. Who else was doing
8 that job?

9 A Me and Rodney, and sometimes
10 Mr. Connell helped. He was -- he was
11 running the tractor where we was putting
12 stuff in all around the building. And we,
13 like, kept the tractor and stuff loaded
14 and kept everything dumped to the
15 Dumpsters and things like that.

16 Q Was Mr. Connell actually a
17 Huff employee?

18 A Yes, sir, he was.

19 Q And how many workers were on
20 that job site when y'all first got there?

21 A Talking about just -- with our
22 crew?

23 Q Yeah.

1 A It was about -- probably about
2 five of us.

3 Q Now, when you say your crew,
4 you mean employed by Huff?

5 A Yes, sir. He had all us
6 working together right there, you know.

7 Q When you say "crew", though,
8 are you talking about cleanup crew or the
9 entire Huff group?

10 A Well, no. He had -- yeah.
11 Like, the carpenters and cleanup men. All
12 us kind of, you know, like, had all our
13 little section together. And they had,
14 you know, electricians and all that -- all
15 kind of different people was on the site.

16 Q Subcontractors; right?

17 A Yes, sir.

18 Q Who did not work for Huff;
19 right?

20 A Right.

21 Q Did you ever work with any of
22 the subcontractors?

23 A Well, we worked beside a lot

1 of them plenty of days.

2 Q Did you ever actually do
3 anything with them, though? I mean, I
4 understand y'all were all together.

5 A Yes, sir. No. We were
6 real -- no, sir.

7 Q How far along was the
8 construction project when you first got
9 there?

10 A I can't recall exactly about
11 how far along. But we was putting up,
12 like, little shutter gutters and all kind
13 of stuff like that inside -- building on
14 the inside. Did a lot on the inside too.

15 Q And how many floors was this
16 house?

17 A Two, I think. Upstairs. They
18 had an upstairs.

19 Q When you got to the Huff job
20 site that first day, did you have to fill
21 out any paperwork?

22 A Yes, sir.

23 Q What?

1 A You know, for -- like,
2 application. He gave, like, an
3 application to fill out, whatever he was
4 paying us an hour and all.

5 Q You filled out a job
6 application?

7 A Yes, sir.

8 Q Was there a health
9 questionnaire?

10 A Sir?

11 Q Was there a health
12 questionnaire, a questionnaire about your
13 health condition?

14 A I can't recall. I can't
15 recall.

16 Q Did you fill out everything he
17 gave you?

18 A Yes, sir.

19 Q What did you do with it when
20 you filled it out?

21 A I can't remember. I don't
22 remember right now.

23 Q Did you talk with any other

1 supervisors other than Mr. Myers that
2 first day?

3 A Not the first day.

4 Q Were there periodically other
5 supervisors on the site?

6 A Yes, it was.

7 Q Can you give me any names?

8 A Mr. Jimmy Langley.

9 Q What was his job?

10 A He was the supervisor over us.

11 Q Over who?

12 A Me and Rodney. When Mr. Myers
13 wasn't there, he was the head over us.

14 Q How often was Mr. Myers
15 absent?

16 A From time to time, he would be
17 out some because he had a lot of, you
18 know, health problems, and he'd have to go
19 out to have surgery and different kinds of
20 stuff like that.

21 Q Did you deal with any other
22 supervisors other than Mr. Langley and
23 Mr. Myers?

1 A No, sir.

2 Q Were there any other
3 supervisors on the site?

4 A I can't recall their names.
5 But every now and then he would be on the
6 job site.

7 Q What was this person's title?
8 Do you know?

9 A He was -- I believe he was the
10 architect. He was over the -- I think his
11 name was Quinton.

12 Q Quinton would be around
13 occasionally?

14 A Yeah.

15 Q And did you understand that
16 Quinton was an employee of Huff?

17 A Yes, sir.

18 Q Do you know whether Quinton
19 was Bobby Myers' supervisor?

20 A I believe so. I believe. He
21 had a thing -- yeah.

22 Q Did you understand that
23 Quinton was the project manager?

1 A Yeah. Yes, sir.

2 Q Now, Mr. Myers is white, isn't
3 he?

4 A Yes, sir. Yes, he is.

5 Q What is Quinton's race?

6 A He's white.

7 Q What about Mr. Langley?

8 A White.

9 Q What about Mr. Connell?

10 A White.

11 Q Do you know whether Brad
12 Connell still works for Huff?

13 A No, he don't.

14 Q Where does he work?

15 A He works with -- I can't --
16 port-a-toilets. Dumps -- cleans
17 port-a-toilets.

18 Q Where does he work?

19 A It's right over across the
20 river here.

21 Q Over in East Tallassee?

22 A Yes, sir.

23 Q Why did he leave Huff?

1 A They -- they constantly stayed
2 in a fuss with Mr. Myers. Him and
3 Mr. Myers.

4 Q Was he fired or did he quit?

5 A No. He quit.

6 Q Did he quit before or after
7 you?

8 A It was -- he quit --

9 Q I mean, did he quit before or
10 after you left the employment of Huff?

11 A He quit first.

12 Q How much did you work there
13 after he left?

14 A He probably worked there about
15 -- about another month probably, close to
16 a month.

17 Q So that means Mr. Connell
18 would have quit pretty soon after y'all
19 first got there; is that right?

20 A Excuse me?

21 Q You're saying you worked there
22 another month or so after Connell left?

23 A Yes, sir.

1 Q And it's your understanding
2 that he left that job because he and
3 Mr. Myers used to get crossways; right?

4 A Yes, sir.

5 Q About what?

6 A Always -- you know, Mr. Myers
7 would always kind of be cursing and
8 fussing, just something every day, every
9 single day.

10 Q Is that what you understand
11 led Mr. Connell to quit, though?

12 A Yes, sir.

13 Q Are you still friendly with
14 Mr. Connell?

15 A Sir?

16 Q Are you still friendly with
17 Mr. Connell?

18 A Yeah. I know him. You know,
19 I know him.

20 Q Do you see him around town?

21 A Yeah. I see him every now and
22 then. We don't -- we don't just talk on
23 an everyday basis, but I know him.

1 Q After you filled out the
2 application and the forms that Mr. Myers
3 provided to you, did you get on to work
4 that day?

5 A Yes, sir.

6 Q Did you ever interview with
7 anyone else at Huff other than Mr. Myers?

8 A Nobody but Mr. -- other than
9 them, the only person we talked to was
10 Mr. Langley because he was the
11 supervisor over us when Mr. Myers wasn't
12 there.

13 Q But did you ever speak to
14 anybody at the Huff office, the main
15 office?

16 A No. No, sir. No.

17 Q Ever?

18 A Nobody besides speaking with
19 Quinton sometimes, you know; just
20 speaking.

21 Q When he was on the site -- job
22 site?

23 A Yes, sir.

1 Q Did you ever have any reason
2 to go to the main Huff office over in
3 Opelika?

4 A No, sir, I didn't. But we
5 went there a couple of times to pick up
6 our checks, which then we'd probably be
7 with Mr. Langley or Mr. Myers or
8 something.

9 Q Did Mr. Myers ever provide
10 transportation for you?

11 A Yes, sir, he did.

12 Q Where?

13 A Sometimes he would pick us
14 up. Like, if Mr. Connell wasn't going to
15 work, Mr. Myers would be coming off from
16 down at his place. He'll swing by and
17 pick me and Mr. Fraley up and drop us off
18 in the evening.

19 Q How many times did that
20 happen?

21 A A couple of weeks.

22 Q So you told me a minute ago
23 you had a bad knee; right?

1 A Yes, sir.

2 Q Which knee is it?

3 A It's my right.

4 Q What's wrong with it?

5 A My knee -- my knee is out of
6 place, like up here (indicating), which it
7 hesitates for me to do a lot of climbing,
8 you know. But as far as work, my knee
9 don't bother me. I do my job.

10 Q How did you injure your knee?

11 A Football.

12 Q In school or just playing?

13 A No. In school. I played for
14 Tallassee High.

15 Q Did you ever have surgery on
16 that knee?

17 A No, sir, I haven't.

18 Q Did you tell Mr. Myers you had
19 a bad knee?

20 A Yes, sir, I did.

21 Q Did he say anything to you
22 about that?

23 A He asked me could I do the

1 ground job and all the low job. I said I
2 could.

3 Q So if you graduated from high
4 school in '96, your knee injury would have
5 been around for several years before you
6 went to Huff; right?

7 A Yes, sir.

8 Q So you were telling me earlier
9 that there was a discussion between you
10 and Mr. Myers about you not being able to
11 do heights because of your knee?

12 A Right.

13 Q And that at some point he had
14 you up on heights?

15 A Yes, sir. Some occasions I
16 did. I had to do it.

17 Q Why?

18 A We had -- well, we was -- we
19 was doing the other little house -- little
20 party house they had right beside the KA
21 house, and we had to fill -- fill -- we
22 had to bring a wheelbarrow up on top of
23 the -- what you call it -- scaffolds. And

1 we had to take the wheelbarrows up on the
2 scaffolds and fill in the holes and put in
3 mud. And we was high up off the ground;
4 real high. But that day we was kind of
5 short of help. We didn't have no help. I
6 didn't have no choice but to get up there
7 and help.

8 Q Did he ask you to get up there
9 and do it?

10 A Yes, he did.

11 Q And did you object?

12 A No, sir, I didn't.

13 Q Did you remind him you had a
14 bad knee?

15 A Yes, sir. But he told me to
16 get up there anyway.

17 Q What did he say?

18 A He told -- we was short on
19 help. He said I still had to get up there
20 and help them pour -- pour the holes, you
21 know. We was pouring concrete down
22 through the bars.

23 Q Were you able to do that job?

1 A Yes, sir, I done it.

2 Q Did you ever re-injure your
3 knee at Huff, on the Huff job site?

4 A No, I didn't. No, sir, I
5 didn't.

6 Q Now, in the charge --
7 discrimination charge that you filed in
8 this case, you claim that Mr. Myers used
9 racial slurs --

10 A Yes, sir.

11 Q -- in your presence.

12 A Yes, sir.

13 Q Tell me a little bit about
14 that.

15 A Well, one occasion that
16 happened, Mr. Myers had some moles took
17 off him. And this was on a Wednesday, I
18 believe.

19 Anyway, one Thursday -- I think --
20 no. It was on a Friday morning. We was
21 at the job site. We had just got on the
22 job site. And there was some guys
23 cleaning bricks, you know; spraying the

1 brick. And Mr. Langley, he was on his
2 radio -- you know, two-way radio, and he
3 beeped in. And me and Mr. Langley and
4 Mr. Fraley was standing out there. We was
5 cutting up boards. And Mr. Myers asked --
6 he asked Mr. Langley what was going on on
7 the job, how, you know, was everything
8 progressing. So he was -- he was on the
9 radio with him. The guy was going slow
10 cleaning the brick.

11 Q Who? What was his name?

12 A I don't know the guy. They
13 had some guys, you know, washing, you
14 know, the mud off the brick. Right. And
15 Mr. Myers said he -- he said he's not
16 going to put up with a bunch of niggers on
17 his job site.

18 Q Who did he say that to?

19 A He said that to Mr. Langley,
20 Mr. Jimmy Langley.

21 Q Did you hear him say that?

22 A Yes, sir, I did.

23 Q Where were you standing?

1 A I was standing right beside
2 Mr. Langley and Mr. Fraley. We was on the
3 saw horses.

4 Q And what was your
5 understanding of what made him say that?
6 I mean, who was he talking about?

7 A He just said -- he asked about
8 what all us was doing, and he asked what
9 the brick guy was doing when he was
10 cleaning brick. And he told him that --
11 Mr. Langley said, well, we all -- we was
12 putting up the little framing for the
13 doors, the door frames. And Mr. Langley
14 told him, said, we, you know, had a little
15 slow start. And he -- that's when --
16 that's when he said -- he asked something
17 about the guys that was spraying the
18 brick. He said, well, I'm not going to
19 put up with a bunch of niggers on my job.

20 Q And he said that to
21 Mr. Langley?

22 A That's right. On the two-way
23 radio. Mr. Myers was out. He had

1 surgery, getting moles off him.

2 Q I hear you. Did you hear
3 Mr. Myers -- were you standing by
4 Mr. Myers or Mr. Langley?

5 A I was standing beside
6 Mr. Langley. Mr. Myers wasn't on the
7 site. He was on his two-way radio.

8 Q So you heard it through the
9 two-way radio?

10 A Yes, sir, I did.

11 Q What did Mr. Langley say to
12 that -- in response to that?

13 A He kind of -- he kind of,
14 like, laughed -- he kind of, like, laughed
15 it off and told me and Mr. Fraley he was
16 just kidding.

17 Q All right. Was that the first
18 time you had heard Mr. Myers use racial
19 slurs?

20 A No, sir, it wasn't.

21 Q Tell me about the first time.

22 A One day we was -- we was
23 all -- me and Mr. Langley and Mr. Myers

1 was eating lunch. And we had a little
2 trailer we would go in and sit and eat
3 lunch sometimes. And we was -- we was
4 just sitting there, and all of us was
5 talking. And he told us -- he told us, he
6 said, y'all's kind don't know nothing.

7 Q What were you talking about?

8 A We were just sitting there
9 talking, you know, about jobs, working.
10 And he -- you know, sometimes he may ask
11 us could we do this or that. And then,
12 you know, we'd just be talking or joking,
13 and he'll make up all kind of remarks and
14 -- we're trying to work. You can't work
15 with nobody -- with somebody constantly
16 cursing you every day. I can't work
17 around nobody like that.

18 Q Specifically, what were y'all
19 talking about when he said, your kind
20 don't know nothing?

21 A We was sitting there
22 talking -- he was asking us something
23 about on the job, and we was sitting there

1 just talking. He said, all y'all kind
2 don't know nothing.

3 Q Who did he say that to?

4 A He said that to me and
5 Mr. Fraley. We was sitting there, and we
6 was just talking, in a conversation.

7 Q Was Jimmy there?

8 A And I asked him -- yeah.
9 Mr. Langley was sitting right there eating
10 his lunch too.

11 Q Anyone else hear --

12 A And I --

13 Q Anybody else hear that?
14 Anybody else present for that statement?

15 A No, sir. Just me,
16 Mr. Langley, Mr. Fraley, and Mr. Myers.

17 Q And this was during lunch one
18 day?

19 A Yes, sir.

20 Q On the job site?

21 A Right.

22 Q Did you or Mr. Fraley or
23 Mr. Langley say anything in response to

1 that statement?

2 A No. I just asked him what he
3 meant by that. He said, you know what I
4 mean.

5 Q And you said what?

6 A Sir?

7 Q Did you say anything else?

8 A No. I left it at that.

9 Q Did he say anything else about
10 what he meant by that?

11 A No.

12 Q And this was before the
13 statement that he made over the two-way
14 radio you told me about a minute ago?

15 A Yeah. This happened before
16 then.

17 Q What was Mr. Myers -- when he
18 said that about your kind don't know
19 nothing --

20 A Yes, sir.

21 Q -- what was his demeanor? I
22 mean, was he angry or just talking to you?

23 A I mean, sometimes he'd just

1 say stuff out of proportion. I don't know
2 why. I don't know the reason. But that's
3 why I want to know why.

4 Q Like what? What do you have
5 in mind when you say that?

6 A I mean, you know, sometimes,
7 you know, he'll call us dumb, stupid, just
8 out of mind. I don't know why.

9 Q Who is "us"?

10 A Me and Mr. Fraley.

11 Q All right. Well, would he
12 make similar comments to other employees?

13 A No.

14 Q You never heard him make
15 similar comments to other employees?

16 A I mean, Mr. Connell sometimes.

17 Q All right. Would he get on to
18 Mr. Connell sometimes?

19 A Yes, sir.

20 Q And make statements like
21 calling him dumb or stupid or something
22 like that?

23 A No. He ain't never really

1 said that to him in his face.

2 Q What's your understanding of
3 why he and Mr. Connell would have these
4 conversations?

5 A I don't know. Most of the
6 time they -- them two would be playing
7 sometimes every day. But I didn't really
8 play like that. I went there to do my
9 job.

10 Q Did Mr. Myers ever make
11 statements to you to the effect that you
12 needed to get to work or do your job or
13 anything like that?

14 A Oh, yes, sir. Yes, sir.

15 Q Were there ever any occasions
16 where you were not doing your job and
17 should have been?

18 A No. We always done our job.
19 Every morning when we got to work, he'll
20 tell us, you know, we've got to clean up
21 around the building. He'll assign us to
22 our job, and we'll go be doing that,
23 because it was a lot of trash, wood,

1 everything around the building. So every
2 morning we got to work, he told us before
3 we got started what we needed to get
4 started doing.

5 Q What time would y'all
6 typically get to the job site in the
7 morning?

8 A Most of the time we got there
9 about -- one time we was going in at,
10 what, six, I believe. Six. Sometimes we
11 went at six, sometimes we went at seven.
12 But every morning we usually get there --
13 we'd get there about fifteen minutes till
14 or twenty minutes till.

15 Q And what time would you
16 typically quit for the day?

17 A Sometimes we was -- we'll come
18 in real early. Like, on Friday we'll come
19 in early and get off around two,
20 two-thirty. We're through with everything
21 we did. And through the week we'd usually
22 get off at three-thirty. Like, if we're
23 pouring concrete or something, it will be

1 later. You know, we stayed until we got
2 the job done, like if we was pouring
3 concrete. Different times.

4 Q The conversation you were
5 telling me about a moment ago with
6 Mr. Fraley and Mr. Langley when he said,
7 your kind don't know anything --

8 A Yes, sir.

9 Q -- in that conversation did he
10 make any other derogatory statements about
11 any other employee or to any other
12 employee?

13 A No, sir. No, sir. Not that I
14 recall.

15 Q Did you ever hear Mr. Myers
16 make derogatory comments toward Hispanic
17 workers?

18 A Oh, yes, sir.

19 Q Like what?

20 A He'd say -- one day he told
21 them they don't know nothing. They need
22 to go back where they came from.

23 Q Do you understand -- have an

1 understanding of what prompted him to say
2 that?

3 A I don't know.

4 Q Do you know whether --

5 A I don't know.

6 Q Do you know whether someone
7 had mishandled some part of the job or
8 something?

9 A No, sir. Them guys was doing
10 their job, doing it hard.

11 Q You don't have any
12 understanding as to why he said that?

13 A No, sir, I don't.

14 Q How many Hispanic workers were
15 on that job site?

16 A Well, when we was working, he
17 hired two more -- two more Mexican guys.

18 Q Do you know their names?

19 A I don't remember their names
20 right now. No. I can't recall their
21 names.

22 Q So how many were there?

23 A It was two of them.

1 Q Two?

2 A Yes, sir. It was a dad and a
3 son.

4 Q Have you talked to them --

5 A No, sir.

6 Q -- about your claims?

7 A I've never seen them guys
8 since.

9 Q Did you ever hear Mr. Myers
10 say anything else derogatory to the
11 Hispanic employees?

12 A Yes, he did.

13 Q Like?

14 A He'll just tell them they
15 don't know what they're doing. They need
16 to get down and all kind of stuff.

17 Q Were there other African-
18 American employees on the job site other
19 than you and Mr. Fraley?

20 A On the site period?

21 Q Yes.

22 A Yes, it was.

23 Q Did you ever hear Mr. Myers

1 make derogatory comments to them?

2 A Yeah. He'll, like, you know,
3 get to fussing at them or hollering or
4 something if they ain't doing something
5 the exact way he wants it. And he'll
6 start fussing.

7 Q Did you ever hear --

8 A Get an attitude, get loud,
9 start hollering.

10 Q Did you ever hear Mr. Myers
11 make any racial slurs toward any of the
12 other black employees?

13 A No, sir. Not that I recall.
14 No, sir.

15 Q All right. Other than what
16 we've talked about, did you ever overhear
17 or witness Mr. Myers making any other
18 racial slurs or comments at all other than
19 what you already told me?

20 A No. Not that I recall.

21 Q Have you told me about all of
22 the racially derogatory slurs that you
23 heard Mr. Myers make during your time at

1 Huff?

2 A Yes, sir. He made them
3 plenty, but I -- that's all that I really
4 can think of.

5 Q Did you make any recordings or
6 notes about anything he said --

7 A No, sir.

8 Q -- at the time?

9 A No, sir.

10 Q Now, as I understand it, your
11 last day at Huff was Monday, July 26,
12 2004?

13 A Yes, sir. Right.

14 Q Tell me about the
15 circumstances that caused that to be your
16 last day.

17 A Well, one day -- on this
18 particular day, we was working down on the
19 party house, me and Mr. Fraley, Mr. Myers,
20 and the two Mexicans. And it started
21 coming up a real bad storm. It started
22 thundering and lightning. And we were --
23 had the cord ran on the outside because we

1 was drilling holes inside the building.
2 And it was raining and thundering and
3 lightning real bad. And so I told the
4 Mexican guys, I said, you need to get
5 down, and we need to put up the cord.

6 So when Mr. Myers came back around,
7 he asked us what in the hell we were doing
8 putting up the cords. And I said, it's
9 coming up a storm. I said, we need to get
10 out of the lightning. He said, you don't
11 get out of the lightning till I tell you
12 to. And he just went off, went off and
13 on.

14 And I told him, I said, I'm not
15 going to work -- work in the lightning
16 with -- around electricity. And he went
17 off on me and all that. And he told me,
18 he said, I'll tell you what. You just
19 stay -- you just stay at home tomorrow. I
20 said, fine.

21 So he dropped me off that evening,
22 and the next day he didn't pick me up. So
23 I know he picked Mr. Fraley up. He didn't

1 pick me up the next day. And --

2 Q Let me stop you real quick.
3 So after he said this, he drove you home
4 --

5 A Yeah.

6 Q -- back here in Tallassee?

7 A That's right.

8 Q Did he say anything else to
9 you on the way home about your position?

10 A No, sir. He didn't -- he just
11 told me to take tomorrow off. I asked
12 him -- I said, so I'm fired? He didn't --
13 he didn't say. He said, just stay at home
14 tomorrow. But he told Mr. Fraley the next
15 day that I was -- that I was fired.

16 Q And you said he didn't come
17 pick you up?

18 A Yeah. He didn't pick me up.

19 Q And then you later heard from
20 Mr. Fraley that --

21 A Yeah. He -- well, Mr. Fraley
22 told --

23 Q -- Mr. Myers told Mr. Fraley

1 that you were fired?

2 A Yes, sir. That's right. He
3 didn't come -- didn't tell me to my face.
4 He told him.

5 Q Did you ever go back to the
6 job site after that?

7 A No, sir. I don't call -- I
8 never went back.

9 Q Did you ever talk to Mr. Myers
10 again after that?

11 A No. Because I never went
12 back.

13 Q Well, did you talk to him on
14 the phone?

15 A No, sir. Never. Never said
16 another word to him.

17 Q Did he use any racial slurs
18 when y'all were talking about getting in
19 from the rain?

20 A No. No, sir. Not that I
21 recall. He just told us that we don't
22 put -- we don't put up cords until he
23 said -- he tells us.

1 Q Did anybody else witness that
2 conversation about getting in from the
3 rain other than you and Mr. Myers?

4 A The only people -- the only
5 people was there at that time -- because
6 when it started storming, everybody
7 started to leave the job site. You know,
8 when it comes a real bad storm, it's
9 thundering and lightning, everybody would
10 leave, you know, when we've got weather
11 like that. But nobody was there but me,
12 Mr. Fraley, Mr. Myers, and the two Mexican
13 guys, was the only guys there that
14 evening.

15 Q Did you ever talk with Quinton
16 about Mr. Myers' behavior?

17 A No, sir, I didn't.

18 Q Ever complain to Quinton?

19 A No, sir, I didn't.

20 Q Did you ever seek out anybody
21 else at Huff to discuss Mr. Myers'
22 behavior?

23 A No, sir, I didn't.

1 Q Did Mr. John Huff ever come to
2 the work site while you were there?

3 A Yes, sir. But I never talked
4 with him.

5 Q Did you know who he was when
6 he was on the site?

7 A Just by, you know, somebody
8 saying who he was, you know. I didn't
9 know him.

10 Q Can you give me the names of
11 any other people, other than you've told
12 me about, that would support the
13 allegations you've made in this lawsuit?

14 A Yes, sir. Mr. Jerry Garrett.

15 Q Jerry Garrett?

16 A Yes, sir.

17 Q Who is he?

18 A It's a guy -- one day we was
19 going back on -- on the site to pick up
20 our last check. And me and Rodney, we had
21 owed Mr. Myers five dollars apiece we had
22 borrowed from him one day during the week
23 for lunch. And he had our last checks.

1 And he -- Mr. Garrett took us up on
2 the job site to pick up our last check.
3 And we met Mr. Langley and Mr. Myers.
4 They was coming out of the job site and we
5 was pulling in, so I stopped. And he
6 stopped and rolled down the window. I
7 asked him could we get our checks. He
8 said, y'all got my five dollars? I said,
9 no, sir, we don't have it. I said, we
10 ain't got it right now. You can follow us
11 to the bank. He said, I ain't got time
12 for that shit. He said, you ain't getting
13 your check till I get my five dollars
14 apiece. And he pulled off on me. And
15 then he stopped, and he backed up,
16 cussing. He said, I want my damn five
17 dollars. I said, we said you can stop
18 over there at the bank and pick it up.
19 Oh, I ain't got time for that shit. And
20 he pulled off.

21 Q Well, did you get your check?

22 A Yeah. He backed up and
23 finally gave it to us.

1 Q How long after that did you
2 get your check?

3 A It was just a few minutes. He
4 finally gave it to us before he left. He
5 pulled off like he was going to spin off
6 and leave, and he backed up, and he
7 finally gave us our check.

8 Q Did you ever give him his five
9 dollars back?

10 A We never seen him no more
11 after that. No, we didn't. We never seen
12 him no more since we got our last check.

13 Q So are you saying that the day
14 that this discussion about the five
15 dollars -- was this your last day of work?

16 A No, sir. We -- after that --
17 I never went on the job again. We had to
18 go back and pick up one more -- our last
19 check from the site, and we went back that
20 Friday. We had to come that Friday to
21 pick up the check.

22 Q So you did go back to the job
23 site after you were --

1 A Yes, sir. To pick up a
2 check. We had to come up there. He told
3 us to come up there. Well, my mom called,
4 and he said we could come pick up our
5 check between two and -- two and four
6 because he was going to leave there at
7 four o'clock. So we went up to get our
8 check. And Mr. Garrett took us up on the
9 job site.

10 Q Who is "us"? Who is "us"?

11 A Me and Mr. Fraley.

12 Q All right. Go ahead.

13 A We went up there to get our
14 last check, and he was just -- he was so
15 rude about giving us our check, cussing
16 us. But he finally gave us our check.

17 Q Was anyone else with you other
18 than Mr. Fraley?

19 A Mr. Garrett.

20 Q And Garrett.

21 A Yeah.

22 Q Anybody else?

23 A No, sir. Just me and

1 Mr. Fraley and Mr. Garrett.

2 Q Who else are you aware of that
3 can speak to Mr. Myers' behavior?

4 A Well, we had Mr. Connell. He
5 was working on the site. And Earl --
6 Bobby Nichols. He was working on the
7 site.

8 Q Who is Bobby Nichols? Is he a
9 Huff employee or a subcontractor?

10 A Yeah. He was working there.
11 He was working there at the time too.

12 Q What's his race?

13 A He's white.

14 Q What about Garrett?

15 A White.

16 Q Who else?

17 A Travis Gilson also. He worked
18 up on the site -- job site.

19 Q What's his job?

20 A White guy. He was a
21 carpenter.

22 Q He worked for Huff?

23 A Yes, sir, he did.

1 Q Anybody else that can speak to
2 these allegations other than these guys?

3 A Well, it was another dude that
4 was working with us, John -- Johnny
5 McDade.

6 Q McDade?

7 A Yes, sir. John -- Johnny
8 McDade.

9 Q What's his position?

10 A He was a -- he was a carpenter
11 also.

12 Q Huff employee?

13 A Yes, sir.

14 Q White or black?

15 A White.

16 Q Who else?

17 A That's about all I can recall
18 the names that were working there right
19 now.

20 Q Can you think of any other
21 individual that could speak to Mr. Myers'
22 behavior and language other than who
23 you've told me about?

1 A I can't really recall none of
2 the other guys because I didn't really
3 know them. Like I said, it was several
4 different crews on the job.

5 Q Was there an office kind of --
6 you know, like a trailer --

7 A Yes, sir.

8 Q -- with an office on the job
9 site?

10 A Yes, it was. That's where we
11 ate lunch and stuff at, in a little
12 trailer. They had a little trailer
13 sitting on the site there.

14 Q When you started working for
15 Huff, were you given any documentation or
16 anything? You told me you filled some
17 things out and gave them back to
18 Mr. Myers. Remember?

19 A Yes, sir. Like -- an
20 application is what it was.

21 Q I understand. Were you given
22 any documentation addressing any aspect of
23 your employment with Huff?

1 A No, sir. Not that I can
2 recall.

3 Q Were you ever given any kind
4 of documents that discussed any part of
5 your employment with Huff?

6 A No, sir. Like I said, when we
7 first started, he gave us, like, an
8 application, you know, to fill out for the
9 tax -- tax purpose.

10 Q I think I asked you this. But
11 did you ever re-injure your knee?

12 A No, sir, I didn't.

13 Q Ever do anything to cause it
14 to hurt worse on the job?

15 A No, sir, I didn't.

16 Q Did you ever consider asking
17 Mr. Myers to reconsider letting you go?

18 A One -- one else -- when we
19 first started. And Mr. Connell was still
20 there. And me and him had got in a fuss
21 one day, and he had told me -- he had told
22 me, said, don't -- just leave and don't
23 come back. And the next day I came

1 back -- back on the job site, and I told
2 him, I said, I need to work, Mr. Myers.
3 And we, you know -- I said, I need my
4 job. And he let me came (sic) back to
5 work. He let me came (sic) back to work.

6 Q How long were you off the job?

7 A One day. That was it.

8 Q All right. Are you saying
9 that he let you go and then let you come
10 back?

11 A Yes, sir.

12 Q Mr. Myers --

13 A Yes, sir.

14 Q -- terminated you and let you
15 come back?

16 A Yes, sir, he did.

17 Q Well, after you were told by
18 him not to come back after that storm
19 issue -- remember?

20 A Yes, sir. That was it.

21 Q I understand. Did you ever
22 consider going back and trying to get your
23 job back?

1 A No, sir. I didn't after --
2 after that. No, sir.

3 Q Did you ever consider talking
4 to anybody else at Huff about what had
5 happened?

6 A No, sir, I didn't.

7 Q Were there any other project
8 managers assigned to that job site other
9 than Quinton while you were there?

10 A No, sir. Not while I was
11 there.

12 (WHEREUPON, a document was
13 marked as Defendants' Exhibit Number 1 and
14 is attached to the original transcript.)

15 Q Let me show you real quick a
16 discrimination charge that was filed on
17 your behalf. Do you recognize that?

18 A Yes, sir.

19 Q Is that your signature at the
20 bottom?

21 A Yes, sir.

22 Q Did you provide the
23 information in that to your lawyer,

1 Mr. Bowles?

2 A Yes, sir, I did.

3 Q When did you first decide to
4 see a lawyer about Huff?

5 A Well, actually, I -- my
6 friend, Rodney -- it had got so bad, the
7 stuff he was saying. And then when --
8 certain slurs he said to us, I wanted to
9 hit him, but I didn't.

10 Q Hit who?

11 A I wanted to -- I really wanted
12 to hit Mr. Myers because of some of the
13 stuff he would say, calling us dumb,
14 stupid, don't know this, and we're dumb
15 and all that kind of stuff, our kind don't
16 know nothing. You don't talk to people
17 like that, sir. It ain't about that.
18 That's wrong. That's wrong.

19 MR. BOWLES: What was the
20 question?

21 MR. WILSON: I think the last
22 question was when did he first see a
23 lawyer.

1 A Yeah. After -- after that
2 day, when all -- after the storm, when all
3 of it happened. And my friend, Rodney, he
4 said -- he told me -- he said, don't do
5 nothing. You need to -- we need to go see
6 a lawyer about him.

7 Q Mr. Bowles is the first person
8 you came to see?

9 A Yes, sir. That's right.

10 Q And, again, just so I'm clear,
11 have you told me about all of the
12 racially --

13 A Yes, sir.

14 Q -- oriented language that he
15 used in your presence?

16 A Yes, sir. All that I can
17 recall right now.

18 Q And you've given this a good
19 bit of thought, haven't you --

20 A Yes, sir.

21 Q -- before today?

22 A Yes, sir.

23 Q And that's all -- what you've

1 told me is all you can recall that he
2 said?

3 A All I recall.

4 MR. BOWLES: I believe he said
5 right now.

6 Q Mr. Buckhanon, have you ever
7 been arrested?

8 A Yes, sir, I have.

9 Q How many times?

10 A About once or twice.

11 Q For what?

12 A A ticket, fines. That's it.

13 Q Traffic things?

14 A Yeah. Traffic tickets.

15 That's it. City jail. Never been in a
16 county jail in my life.

17 Q You were actually put in a
18 city jail over a traffic ticket?

19 A You know, like, failure to pay
20 the fine off.

21 Q Ever been convicted of any
22 crimes?

23 A No, sir, I haven't.

1 Q And you haven't worked for
2 anybody else since leaving Huff other than
3 Hilyer?

4 A Yes. That's it.

5 Q On and off you say?

6 A Yes, sir.

7 Q On this discrimination charge,
8 you stated that your last day of work was
9 July 26th; right?

10 A Something like that.

11 Q Do you have any reason to
12 doubt that, the accuracy of that?

13 A It was somewhere along in
14 there. I can't recall the exact date
15 right now.

16 Q So do you have any reason to
17 dispute that you worked at Huff from about
18 June 1, 2004, to about July 26, 2004?

19 A Yes, sir. Something like
20 that.

21 Q Just a little less than two
22 months?

23 A Yes, sir. That's right.

1 Q And what was your rate of pay
2 at Huff?

3 A When I left -- at first we was
4 making about nine fifty, I believe.

5 Q What did you start at? Do you
6 know?

7 A He started us off with
8 eight -- eight fifty -- eight dollars. It
9 may have been eight dollars an hour, I
10 believe. Yeah. We was making eight, and
11 he moved us up to nine.

12 Q When?

13 A After we got to working. And
14 he told us if we progressed on our work
15 and showed improvement, he'll move us up
16 to nine dollars an hour. And he pushed us
17 up to nine dollars an hour.

18 Q A minute ago you said nine
19 fifty.

20 A Something like that.

21 Q Nine or nine fifty?

22 A Nine, nine fifty, something
23 like that. I know we got a raise.

1 Q When you say "he", are you
2 talking about Myers?

3 A Yes, sir. Mr. Myers gave us a
4 dollar raise.

5 Q Did you have any benefits
6 through that job other than just salary --
7 I mean, not salary, but pay?

8 A No. That's about all we had.

9 Q I mean, no health insurance?

10 A No. No, sir.

11 Q No other kinds of benefits?

12 A No, sir. I don't recall. No,
13 sir.

14 Q Have you ever had any kind of
15 benefits through Hilyer?

16 A No, sir.

17 Q All right. I think I'm about
18 through. Before I finish, can you think
19 of any other statements that Mr. Myers
20 made to you or in your presence?

21 A No, sir, not right now. I
22 don't recall at this time.

23 Q Is there anything else about

1 your claims that you consider to be
2 important that we haven't talked about?

3 A No, sir. Not at this time.
4 No, sir.

5 Q That's all. Thank you.

6 MR. BOWLES: I want to ask him
7 one or two questions.

8

9 EXAMINATION BY MR. BOWLES:

10 Q Mr. Buckhanon, you testified
11 about a conversation that took place when
12 you and Rodney Fraley and Mr. Myers and
13 one other employee -- I don't know if it
14 was Mr. Connell or Mr. Langley -- was
15 present where Mr. Myers said something to
16 the effect that, your kind don't know
17 anything.

18 A Yes, sir.

19 Q Do you remember that?

20 A Yes, sir.

21 Q Now, when you filed this claim
22 with EEOC, you stated that you overheard
23 Mr. Myers say, your kind don't know

1 anything; is that correct?

2 A Yes, sir. Yes, sir.

3 Q You go on to say in that same
4 conversation with Mr. Myers, and referring
5 to another black employee, said, niggers
6 like him don't know anything.

7 A Yeah.

8 Q Did he say that?

9 A That was me and Mr. Fraley.

10 Q Now, did Mr. Myers say those
11 words, niggers like him don't know
12 anything?

13 A Yes, sir. Yes, he did.

14 Q Who was he referring to?

15 A You're talking about when we
16 was outside?

17 Q I don't know.

18 A We was inside the trailer, and
19 that's when he -- that fact.

20 Q Did he say those words?

21 A Yes, sir, he did.

22 Q And were you and Mr. Fraley
23 sitting there listening to him?

1 A Yeah. We ate lunch just about
2 every day together, me, Mr. Fraley, and
3 Mr. Myers and Mr. Langley.

4 Q Who was Mr. Myers referring to
5 when he said, niggers like him don't know
6 anything?

7 A Like, y'all. He committed to
8 say, like y'all.

9 Q Like y'all? He was talking
10 about you and Rodney?

11 A Yeah.

12 MR. BOWLES: That's all.

13

14 FURTHER EXAMINATION BY MR. WILSON:

15 Q When he made that comment,
16 though, he wasn't saying -- he didn't say
17 it in reference to you?

18 A No. He said "y'all". He put
19 it "y'all".

20 Q That's not what this sworn
21 statement says. Do you want to take a
22 look at it? Look down at the bottom of
23 the paragraph.

1 MR. BOWLES: I think it goes
2 over to the second page.

3 MR. WILSON: It does. It
4 does.

5 A It says him right there.

6 Q Right. In that latter quote
7 that you put in your sworn statement to
8 the EEOC, it says, niggers like him don't
9 know anything.

10 A Right.

11 Q Now, Mr. Bowles was wanting to
12 know, I think, who he was talking about.

13 A He was talking -- he was
14 referring to us because wasn't nobody in
15 the room but me, Mr. Myers, Mr. Fraley,
16 and Mr. Langley.

17 Q Right here where it says,
18 niggers like him don't know anything, who
19 is "him"?

20 A He was quoting to me and
21 Mr. Fraley. Wasn't nobody else there but
22 me and Mr. Fraley.

23 Q I understand he was making the

1 statement in your presence.

2 A Right.

3 Q But who was he talking about?
4 Who was the "him" in this statement?

5 A The only person he ever made
6 comments to was me and Mr. Fraley.

7 Q About who, though?

8 A About who?

9 Q Yeah. It says -- your
10 statement that you signed says, Mr. Myers,
11 in referring to another black employee,
12 said, quote, niggers like him don't know
13 anything.

14 A No. He was talking -- he was
15 talking about me and Fraley --
16 Mr. Fraley. We're the only ones that he
17 ever talked to really. Like, when we had
18 lunch, he'll come up with all kind of
19 conversations talking to me and
20 Mr. Fraley.

21 Q What had you and Mr. Fraley
22 done to make him say that y'all didn't
23 know anything?

1 A It just -- different days.
2 Like, we'd be at work. And, like, we'd be
3 at lunch. He'll be talking about stuff
4 that we have been doing all day. And then
5 he'll tell us we don't know how to do such
6 and such things. And we might come up and
7 say, yes, we do know how to do this. And
8 he might come back with a statement of
9 saying we don't know -- you know, we don't
10 know how to do nothing. He always said,
11 y'all are dumb, stupid, all that kind of
12 stuff like that.

13 Q If I understand you correctly,
14 he'd make similar statements to the other
15 employees?

16 A Not every -- not everybody
17 every day. And Mr. Connell, he gets on
18 him sometimes. And he cusses anybody out;
19 any electric guys, any of them on the
20 job. If he come in there, he'll holler
21 and fuss and cuss. He did it every single
22 day.

23 Q And he did it to the Hispanic

1 employees?

2 A Yes.

3 Q And the white employees?

4 A That's right. But he just be
5 cussing. Sometimes he'd just come in.
6 And I don't know why he did it, but he did
7 it.

8 Q But in terms of racial slurs,
9 use of the "N" word, things like that --

10 A That's right.

11 Q -- you heard him one time over
12 the two-way radio make that statement we
13 talked about earlier?

14 A Yes, sir.

15 Q You were standing there with
16 Jimmy Langley; right?

17 A Yeah.

18 Q All right. And then --

19 A And in the trailer.

20 Q Yeah. Right. And then a
21 second occasion in the trailer when you
22 and Mr. Myers --

23 A And Mr. Fraley.

1 Q -- and Mr. Fraley --

2 A And Mr. Langley.

3 Q -- and Mr. Langley were all
4 sitting together eating lunch; right?

5 A Right.

6 Q He made the other statement --
7 he said, your kind don't know anything.

8 A Yes, sir.

9 Q And then in the same
10 conversation, he said, quote, niggers like
11 him don't know anything.

12 A No. He said, niggers like
13 y'all don't know anything.

14 Q That was all in one
15 conversation in the trailer?

16 A Yeah. At different times, you
17 know. Every day we took lunch, and it be
18 us four always taking lunch together.
19 We'll go up to the store and get us
20 something to eat, and we'll be sitting
21 there, and he'll just come up with
22 something. You know, come up with another
23 something like we'd be done done it that

1 day and we didn't do it right or, you
2 know, just different kind of stuff. He'll
3 get to talking about it. And if we're
4 saying something about it, he'll get mad
5 and get to cussing and fussing about it.

6 Q I understand what you're
7 saying. What I'm trying to make sure I
8 understand is, the racial slurs that you
9 heard was the one over --

10 A Yes, sir.

11 Q The only ones you heard --

12 MR. BOWLES: Let him finish
13 the question before you go to answer it.

14 Q You heard the statement he
15 made over the two-way radio to Jimmy
16 Langley?

17 A Right.

18 Q And he wasn't talking about
19 you when he made that statement, was he?
20 He was talking about somebody washing a
21 wall?

22 A No. That's meaning to
23 everybody that was on the job. He said,

1 I'm not going to put up with a bunch of
2 niggers on my job.

3 Q Did he even know you were
4 standing there?

5 A He didn't know we was there.
6 That's the point.

7 Q He made that statement over a
8 two-way radio to Mr. Langley; right?

9 A That's right.

10 Q And then there is one other
11 occasion where you heard him use racial
12 slurs, and that was in the trailer where
13 y'all were eating lunch together?

14 A That's right.

15 Q That's it?

16 A Yes, sir.

17 MR. WILSON: That's all.

18 MR. BOWLES: Nothing further.

19

20 FURTHER DEPONENT SAITH NOT

21

22

23

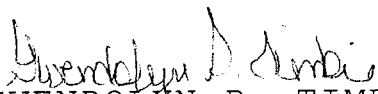
C E R T I F I C A T E

STATE OF ALABAMA)

MONTGOMERY COUNTY)

I hereby certify that the above and foregoing deposition was taken down by me in stenotype, and the questions and answers thereto were transcribed by means of computer-aided transcription, and that the foregoing represents a true and correct transcript of the deposition given by said witness upon said hearing.

I further certify that I am neither of counsel nor of kin to the parties to the action, nor am I in anywise interested in the result of said cause.


GWENDOLYN P. TIMBIE, CSR
Certificate No: AL-CSR-569

My Commission Expires
March 4, 2009

CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974; See Privacy Act Statement before completing this form.

AGENCY

CHARGE NUMBER

☐ FEPA
☒ EEOC

130-2004-04248

and EEOC

State or local Agency, if any

NAME (Indicate Mr., Ms., Mrs.)

HOME TELEPHONE (Include Area Code)

Mr. Barry Lewis Buckhanon

(334) 283-8427

STREET ADDRESS

CITY, STATE AND ZIP CODE

DATE OF BIRTH

497 Kent Road

Tallahassee, Alabama 36078

11/24/76

NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME. (If more than one list below.)

NAME Huff & Associates
Construction Co., Inc.

NUMBER OF EMPLOYEES, MEMBERS
Unknown

TELEPHONE (Include Area Code)
(334) 749-0052

STREET ADDRESS

CITY, STATE AND ZIP CODE

COUNTY

1220 Fox Run Pkwy.; PO Box 2427; Opelika, Alabama 36803-2427

Lee

NAME

TELEPHONE NUMBER (Include Area Code)

STREET ADDRESS

CITY, STATE AND ZIP CODE

AUG 31 2004

COUNTY

CAUSE OF DISCRIMINATION BASED ON (Check appropriate box(es))

DATE DISCRIMINATION TOOK PLACE
EARLIEST (ADEA/EPA) LATEST (ALL)

☒ RACE ☐ COLOR ☐ SEX ☐ RELIGION ☐ AGE
☐ RETALIATION ☐ NATIONAL ORIGIN ☐ DISABILITY ☐ OTHER (Specify)

☐ CONTINUING ACTION

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

My name is Barry Lewis Buckhanon and I reside at 497 Kent Road in Tallahassee, Alabama 36078. I am currently 27 years of age with a date of birth of November 24, 1976. I completed the 12th grade at Tallahassee High School in Tallahassee, Alabama. My race is black or African American.

On or about June 1, 2004, I went to work for Huff & Associates Construction Company, Inc. (hereinafter "Huff & Associates") as a laborer. The superintendent on the job site where I was initially employed was a long-time employee of Huff & Associates by the name of Bobby Myers. During the entire time that I worked for Huff & Associates, Mr. Myers was constantly cursing, ridiculing, insulting and otherwise intimidating the minority employees working under his supervision. Mr. Myers routinely used racial slurs in referring to black employees. Mr. Myers made no attempt to hide or suppress his racist views. I have personally heard Mr. Myers use a variety of racially derogatory terms in referring to black and other minority employees. On one occasion I overheard Mr. Myers say, "I ain't going to put up with a bunch of ignorant niggers on my job". On another occasion Mr. Myers became enraged over something and in speaking directly to me and another black employee by the name of Rodney Fraley said, "Your kind don't know anything". In that same conversation Mr. Myers, in referring to

(See Continuation Page)

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or telephone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

NOTARY - (When necessary for State and Local Requirements)

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

I declare under penalty of perjury that the foregoing is true and correct.

SIGNATURE OF COMPLAINANT

Barry Lewis Buckhanon

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
(Day, month, and year)

Date 8/30/04

Charging Party (Signature)

The Particulars Are:
(Continuation Page)

another black employee, said, "Niggers like him don't know anything". Mr. Myers also made insulting and denigrating comments to the Hispanic workers on the job site. For instance, he would tell them that "they needed to go back to Mexico and that they did not know anything". Since Mr. Myers was the highest ranking employee of Huff & Associates on the job site, his constant cursing, ridiculing, insulting and otherwise intimidating behavior created a hostile work environment for all minority employees including myself.

My last day to work for Huff & Associates was Monday, July 26, 2004. On that day Mr. Myers got angry with me because I asked if some of the other workers could get in out of the rain. Later that day Mr. Myers told me "Don't come to work tomorrow - take tomorrow off". I expected to be able to return to work on Wednesday of that week but on Tuesday Mr. Myers told a friend and co-worker by the name of Rodney Fraley that I had been terminated.

AUG 31